IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1211 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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G.S.R.T. CORPORAATION

Versus

RAMESHCHANDRA M. DHARANI

Appearance:

1. Special Civil Application No. 1211 of 1989

MR HARDIK C RAWAL for Petitioner No. 1

MR VN BHAGODIA for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 26/03/2002

ORAL JUDGEMENT

Heard learned advocate Mr. H.C. Raval for the petitioner. Mr. V.N. Bhagodia is appearing for the respondent.

By way of this petition, the petitioner has challenged the award made by the labour court concerned in reference NO. 1028 of 1985 dated 4.7.1988 wherein the labour court concerned has directed the corporation to include the name of the respondent in the wait list of conductor and to offer the work as and when necessity arise. In this petition, rule has been issued by this Court on 21.1.1991 with a direction to the corporation to include the name of the respondent in the list of badli workers subject to the result of the present petition.

Today, learned advocate Mr. Raval for the corporation has submitted that in view of the award made by the labour court and the interim directions issued by this Court while admitting this petition, the corporation has inserted the name of the respondent in the wait list of badli workers and the respondent has subsequently been regularized as a conductor on 14.9.1990. Mr. Raval has further submitted that before terminating the services of the respondent workman, he was served with a notice and reply to the said notice was submitted by the workman and thereafter, his services were terminated and in view of these facts, the labour court ought not to have interfered with the case of a badli worker.

I have considered the submissions made by Mr. Raval. Before the labour court, statement of claim was filed by the respondent at Exh.3 wherein it has been contended inter alia that his name has been removed from the waiting list of the conductors by order dated 7.12.1984 on the ground that there was excess in the ST Cash on 13.10.1984 and another alleged default of date 18.9.1985. Reply to the statement of claim has been filed by the corporation before the labour court wherein it has been pointed out that the respondent was working as badli worker and he has committed serious misconduct on 13th October, 1984 and 19h September, 1984 and therefore, he was called for to submit explanation and after receiving and considering his explanation, his name has been removed from the wait list of conductors. Before the labour court, no oral evidence has been led by either of the parties. After appreciating the facts and circumstances of the case, the labour court has concluded that the charge of misconduct alleged against the workman was serious in nature but the labour Court was of the view that no domestic enquiry has been held against the workman to prove the charge levelled against him. The labour court was of the view that the name of the workman has been removed from the wait list on the basis of mere alleged misconduct without offering any reasonable opportunity of being heard and therefore the action of

the corporation was against the principles of natural justice. The labour court therefore allowed the reference on that ground by directing the corporation to reinsert the respondent's name in the wait list of conductors. I myself have perused the award in question made by the labour court concerned. The view taken by the labour court is supported by the principles laid down by this Court in the decision reported in 1993 (2) GLH page 204 wherein this court has held that even in case of badli worker, if it has been alleged that the workman concerned has committed serious misconduct, then, in such circumstances, it is the duty of the corporation to held departmental inquiry before terminating services of such badli worker. Therefore, in the facts of the present case and also in view of the law laid down by this court in 1993 (3) GAL 204, according to my opinion, the labour court has committed no error in directing the corporation to reinsert the name of the respondent in the wait list of conductors and to give him work as and when necessity arise. The award made by the labour court is in consonance with the law laid down by this Court in 1993 (3) GAL 204.

No other submissions were made by Mr. Raval. Mr. Raval has also not been able to point out any infirmity in the award in question. He has also not been able to point out any jurisdictional error and/or procedural irregularity committed by the labour court warranting interference of this court in exercise of the powers under Article 226/227 of the Constitution of India. Hence, there is no substance in this petition and the same is required to be rejected with costs.

26.3.2002. (H.K. Rathod,J.)

Vyas